



Title 129 Proposed Amendments

May 3, 2013 Outreach Meeting

Presentation Overview

- Brief Explanation of Rulemaking Process
- Detail draft proposal for June 2013 EQC meeting
- Opportunities for input

Rulemaking Process

- Governed by Nebraska Administrative Procedures Act (Neb.Rev.Stat. §84-901-84-920)
- Step 1 – Planning & Development
 - Program prepares draft regulations
 - Agency Legal & Director approve
 - Submit to Governor’s Policy Research Office (PRO)
 - Once PRO approves, outreach to interested parties may begin
- Step 2 – Propose Regulations before EQC
 - Explanatory Statement is prepared
 - Fiscal impact to municipalities, to industry, and to other agencies is prepared
 - Regulations are proposed and put on public notice 40 days in advance of hearing
 - Environmental Quality Council is the rulemaking body that decides whether to approve or disapprove the regulation

Rulemaking Process (cont.)

- Environmental Quality Council (EQC)
 - 17 Governor-appointed & represent different sectors
 - Food products manufacturing
 - Conservation
 - Agricultural processing industry
 - Automotive or petroleum industry
 - Chemical industry
 - Heavy industry
 - Power generating industry
 - Agriculture actively engaged in crop production
 - Labor
 - Professional Engineer experienced in control of air and water pollution and solid wastes
 - Physician knowledgeable in the health aspects of air water and land pollution
 - County Government
 - Two representatives from city government
 - Livestock industry
 - Minority populations
 - Biologist
- It takes 9 votes to pass a proposed regulation

Rulemaking Process (cont.)

- Step 3 – Post Adoption Approvals
 - Attorney General (AG) Review
 - Review for legality and consistency with federal and state statutes
 - Review to assure the regulation was adopted properly and that the Administrative Procedures Act was followed.
 - Governor
 - Determines whether to approve the regulation
 - Once approved, they are stamped and filed with Secretary of State
 - Secretary of State
 - Stamps, signs & dates regulation
 - Regulations are valid & effective 5 days after Secretary of State files them

Chapter I

- Remove list of exempt organic compounds not classified as VOCs in section 160
 - Section 160 intended to mirror CFR but has become outdated
 - Compounds added or removed from CFR without notice
- Replace with reference to CFR with listing of exempt organic compounds
 - Referencing CFR in section 160 ensures Chapter I maintains accuracy
- Reformat sections 024 and 053
 - Make formatting consistent with remainder of Chapter I
- Correct numbering, formatting, and minor typographical errors

Chapter 4

- Reformat to make each standard clearer
 - Match the federal standards
 - Level, averaging time, & form easily compared w/ federal standards
 - Not proposing to update PM_{2.5} standard
 - Will be proposed at a later date
- Amend gaseous standards to “ppm” or “ppb” nomenclature
 - Ensure that they match federal standards.
 - CO, NO₂, O₃, & SO₂ are in “μg/m³” in Title 129
 - Correct nomenclature is “ppm” or “ppb”
 - Currently not equivalent to the federal standards
 - Federal standards do not assume STP
- Update SO₂ to current 1-hour standard
 - Remove revoked annual arithmetic mean
 - Remove 24-hour standard

Chapter 4 continued

- Remove the “secondary standard” for CO
 - No federal secondary CO standard
- Add the 2008 8-hour O₃ standard
 - Remove the revoked 1-hour O₃ standard
 - Specify that 1997 & 2008 O₃ standards in effect
- Update lead standard to 0.15 µg/m³
 - Update averaging time & form
- Update CFR attainment method references
- Correct formatting and minor typographical errors

Chapter 19

- Remove PM_{2.5} air quality analysis threshold in section 016.07A3
- Remove SIL for PM_{2.5} in section 018.02
 - Due to January 22, 2013 Court of Appeals decision
 - Will bring Title 129 into compliance with current EPA regulations
 - If not adopted, Title 129 is less stringent than the federal rules
 - SIP submittals with these provisions likely deficient and not approvable
- Remove the word “not” before “incomplete” in sections 23.01 and 23.02
 - Correct the intent of the regulations
- Minor formatting the typographical corrections

Chapter 22

- Correct minor formatting and typographical errors

Chapter 28

- Update the effective date of the CFR in section 001
 - Incorporates all amendments to NESHAPs through July 1, 2012 into Title 129
- Add missing language to sections 001.87 and 001.88

Changes Not Proposed

- January 4, 2013 Court of Appeals ruled on 2007 PM_{2.5} NAAQS Implementation Rule and 2008 NSR/PSD rule for the 1997 PM_{2.5} NAAQS
 - EPA should have used PM₁₀ nonattainment requirements (Subpart 4) not general nonattainment requirements (Subpart 1)
 - Remanded the implementation rule back to EPA
 - Does not affect status of the current PM_{2.5} standard
 - Affects the implementation of the PM_{2.5} standard
 - Could affect attainment areas as well as nonattainment areas, specifically with regard to addressing precursors in the permitting program
- NDEQ not proposing amendments to Chapters 1, 20, and 22 to finalize the implementation of program for PM_{2.5} in CP
 - Unknown how rules will change
 - Not proposing revisions until rulemaking completed by EPA or further guidance provided

Opportunities for Input

- Taking input meeting here
- Input through email
ndeq.airquality@nebraska.gov
 - Input received on or before May 6th will be considered before we finalize the proposal
- During public comment period
 - Should begin no later than May 15
- During EQC meeting
 - June 20, 2013
So Sioux City, Marina Inn

Questions?

